IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

O R D E R

Lokram Vs. State of Rajasthan

S.B.CR.MISC. II BAIL APPLICATION NO.3592/2006

DATE OF ORDER :: August 28, 2006

PRESENT

HON'BLE MR.JUSTICE H.R.PANWAR

Mr.H.S.S.Kharlia, for the petitioner.

Mr.Ashok Upadhyaya, Public Prosecutor.
Mr.R.K.Charan, for complainant.

BY THE COURT:

This bail application was filed on 19.8.2006 by petitioner Lokram as first bail application. However, before a co-ordinate Bench, it was pointed out by counsel for the complainant that petitioner earlier filed a bail application being S.B.Cr.Misc. Bail Application No.2980/2004, which came to be dismissed on 20.9.2004, a certified copy of order dt. 20.9.2004 is placed on record. Therefore, by order dt. 22.8.2006, the matter has been placed before this Court as obviously it is second bail application.

I have heard learned counsel for the parties. Carefully gone through the challan papers.

After investigation in the matter, the police filed the challan against three persons viz. Ishwar Singh, Ramrati and Bheem Singh, who have been tried by the trial court. During the pendency of the criminal case, an application was filed by the complainant under section 319 Cr.P.C. before the trial court, which came to be dismissed, against which, a revision petition was filed before this Court being S.B.Cr.Revision Petition No.844/2003. By order dt. 19.12.2003, the revision petition came to be allowed and the order of the trial court was set aside. That order was carried to the Hon'ble Supreme Court by way of SLP (Cri.) No.1204/2004, which came to be dismissed on 10.4.2006 by the Hon'ble Supreme Court, which is reported as Lok Ram vs. Nihal Singh & Anr. JT **2006(4) SC 464.** The Hon'ble Supreme Court, while dismissing the SLP, noticing that since the matter is pending since long, directed the trial court to complete the trial as early as possible. The petitioner filed earlier bail application being S.B.Cr.Misc. Bail Application No.2980/2004, which came to be dismissed by order dt. 20.9.2004 as it was not pressed by the learned counsel at that stage. However, the counsel sought liberty to file a fresh bail application after the statements of material witnesses are

recorded by the trial court and the liberty was granted. In the instant case, after dismissal of the SLP by the Hon'ble Supreme Court, so far no witness has been examined.

It is contended by learned counsel for the petitioner that the other co-accused, who have been convicted and sentenced, the sentence awarded to them has been suspended. Learned Public Prosecutor and the counsel appearing for the complainant submit that the sentences of those, who have been convicted, were suspended because they had undergone nearly half of the sentence and the appeals were not likely to come up for hearing and not on the merit of the case but only on the ground of delay in hearing the appeal, relying on a Supreme Court's judgment.

On careful perusal of the material on record and the fact that the other co-accused have already been convicted and the trial court prima facie found that there is evidence to proceed against the petitioner and the fact that while dismissing the SLP, the Apex Court specifically issued direction to the trial court to conclude the trial as early as possible. Since the record of the trial court received by this Court in other appeals filed by the co-accused, who have been convicted and sentenced, has gone back only two months back and, therefore, in compliance of the direction of the Hon'ble Supreme Court, the matter could not

proceed. However, keeping in view the facts and circumstances of the case and the fact that while rejecting the earlier bail application, at the request of learned counsel for the petitioner, the liberty was granted to file a fresh bail application after the statements of the material witnesses are recorded by the trial court and so far no witness has been examined in this case. In the circumstances, therefore, no case for bail is made out.

The bail application is, therefore, dismissed. The trial court, keeping in view the direction of the Hon'ble Supreme Court, to take up the matter on the priority basis and conclude the trial as early as possible.

[H.R.PANWAR],J.

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